

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

DANIEL HOPKINS ,)
Plaintiff,) CASE NO. C18-01723-MJP
v.) Seattle, Washington
INTEGON GENERAL INSURANCE) October 2, 2020
CORPORATION,) 1:30 p.m.
Defendant.) PRETRIAL CONFERENCE
) via ZOOM
)
)

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE MARSHA J. PECHMAN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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1 PROCEEDINGS

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3 THE CLERK: United States District Court for the
4 Western District of Washington is now in session, the Honorable
5 Marsha J. Pechman presiding.

6 This is the matter of Hopkins versus Integon General
7 Insurance Corporation, Cause No. C18-1723, assigned to this
8 court.

9 Counsel, please make your appearances for the record.

10 MR. WAMPOLD: Mike Wampold and Tomas Gahan for the
11 plaintiff.

12 MR. HARRIS: Eliot Harris and Christine Lee for the
13 defendant.

14 THE COURT: All right. I see I have my two courtroom
15 deputies that are going to be with us, and the court reporter,
16 as well as the law clerk, Lia Pernell, who is on this call. I
17 don't know if there are others that are intending to watch this
18 afternoon.

19 MR. WAMPOLD: The only other person on there from our
20 office is our paralegal.

21 THE COURT: Very good.

22 Counsel, we have some things we need to accomplish this
23 afternoon. First of all, we need to complete and settle our
24 jury instructions. We need to complete and settle our voir dire
25 questions. There is a motion for reconsideration that was filed

1 by the defense today. And then there is a motion in limine
2 concerning plaintiff's expert.

3 Mr. Wampold, I can't hear you.

4 MR. WAMPOLD: I, actually, put it on mute for a second
5 to say something to my colleague, because I realized there was
6 one document I don't have that I need.

7 THE COURT: Okay.

8 As well as to have us check to make sure everybody is
9 comfortable with what it is we have to do in order to launch.
10 Obviously, the first thing is the judge has to turn on her
11 camera.

12 I did want to tell you that I have reviewed the summons
13 responses that we have, and, interestingly enough, we only had
14 four people out of our requests for summons who said -- one that
15 said, "I don't want to participate in Zoom and I don't want to
16 come to the courthouse, and I don't have any of this equipment,"
17 so I told the jury coordinator that that person would be
18 excused.

19 There was another person who said, "I'm happy to
20 participate, but I can't do it Monday." I let that person be
21 excused.

22 There was a third person who, basically, was concerned
23 because they are in Island County, and they were worried about
24 their connectivity, and I said, "We'll try you out anyway." And
25 she was further concerned about if she had to come to the

1 courthouse, the ferries are not running very reliably, so I
2 said, "Well, we'll get to that if you happen to be chosen."

3 And, finally, there was one juror who appeared to answer
4 inconsistently. No, she didn't want to participate, but, yes,
5 she would come to the courthouse. So I asked the court
6 administrator to please call her and try and sort out if she
7 misunderstood the questions, and I haven't gotten a response on
8 that.

9 But it certainly looks like we'll have enough jurors for
10 our jury pool. It also looks like very few people -- I think
11 only one responded that they only had an iPad. So that
12 surprised me a little bit. So we may be able to choose our
13 jurors with a single panel.

14 And I just spoke with Judge Zilly a few moments ago. He
15 was able to get a jury in three hours. He does it differently
16 than I do. He individually questions each witness, one at a
17 time. I don't do that. So I'm fairly confident that we can get
18 our jury picked in the morning.

19 According to Judge Zilly, we got a normal pool among the
20 people that were responding. Most of the people here in the
21 Western District have an average of a four-year college degree,
22 and so they seem to be pretty adept at use the equipment.

23 What did seem to be a problem for him was -- not for him
24 but for the jurors is, occasionally, they lost our bandwidth,
25 and that caused some connectivity problems.

1 But other than that, Judge Zilly seemed to think it was,
2 actually, moving faster than what he expected. He expected an
3 eight-day trial. He's going to get done in six. So he didn't
4 report any major problems.

5 For your trial, we've gotten some press around the nation,
6 and *Bloomberg Law* did a piece on this, so we've been contacted
7 by several other jurisdictions, including judges out of Utah and
8 the Northern District of California, who are wanting to watch.
9 So we may have some people watching the proceedings. Mostly, I
10 think, they're not watching you, they're watching me and
11 watching the court staff, so that shouldn't be a problem.

12 Remember, I told you that if there are people you believe
13 you would bring to watch in the courtroom, Mr. Wampold, perhaps
14 your client's wife, for example, you need to get that name to
15 Mr. Cogswell so that person can have access to be able to watch.

16 So any questions about what I've said so far?

17 MR. WAMPOLD: Not from plaintiffs, Your Honor.

18 MR. HARRIS: No, Your Honor.

19 THE COURT: All right. So let's get into it.

20 Thank you very much to the defense for putting together a
21 set of voir dire questions. They all look fine to me.

22 I've added two questions, and I put these questions at the
23 end for a purpose. I like to get our jurors hooked in to
24 thinking this is going to be interesting before I ask them for
25 any excuses as to why they can't participate.

1 So I've added, "The court is running a timed trial, and the
2 parties and the court are trying to be realistic on how long you
3 will have to be here and serve. We'll be running court from
4 9:00 to 10:30, with a break; from 10:45 to noon; a luncheon
5 break from 1:00 to 2:30; and then from 2:45 to 3:30; that we'll
6 be asking you to be here from Monday through Friday next week.
7 Monday is a court holiday, and then we would expect you to be
8 the following Tuesday and Wednesday." And then I'll ask for any
9 hardships once we go there.

10 The next question is, "Does anyone have any special needs
11 that the court can accommodate to ensure your full participation
12 in the trial?" And we'll see if there's any of that. Usually
13 they want to know about breaks and being able to stand up, and
14 we'll accommodate that.

15 So anything else anybody wants to say about the voir dire
16 questions?

17 MR. WAMPOLD: No, Your Honor.

18 MR. HARRIS: No, Your Honor.

19 THE COURT: Okay.

20 Once again, you-all did a wonderful job on your jury
21 instructions, but No. 32 caused a little hiccup here, and that's
22 the damages instruction. I just saw that Mr. Gahan sent over a
23 corrected one, and, I don't know, Mr. Harris, have you had a
24 chance to look at that to see if you have any difficulty with
25 that one?

1 MR. HARRIS: We have, Your Honor. I think the
2 corrected 32 is the right one.

3 THE COURT: Okay.

4 MR. HARRIS: I would add that I think it needs an
5 explanation. The damages that are being sought in that
6 instruction only relate to the 2016 accident.

7 THE COURT: I think that's what it says right at the
8 beginning.

9 MR. HARRIS: Yeah, that's it. That version is the one
10 that we're okay with.

11 THE COURT: Okay. Then that is the one that -- let me
12 read this instruction as it came in.

13 Well, what it says is the value of plaintiff Hopkins' claim
14 for insurance benefits. Did you want additional language to
15 that, Mr. Harris?

16 MR. HARRIS: No, that's fine, Your Honor.

17 THE COURT: Okay. Then that will be the 32 -- the
18 corrected 32 will be substituted in, and Ms. Pernell will send
19 you -- I renumbered your set, as you can see. I just shuffled
20 some things around in different places. I renumbered the set,
21 and we'll sign it, date it for Monday, October 5th, and it will
22 be sent out.

23 Now, I'm hoping that somebody on my team knows how to put
24 the jury instructions up in front of the jury so that I can read
25 them. I'll read from a hard copy.

1 Yes, Mr. Harris?

2 MR. HARRIS: Yes, I've got a couple of issues on the
3 jury instructions I'd like to bring up, the other ones other
4 than 32, if that's okay.

5 THE COURT: Oh. All right. I didn't realize that. I
6 thought this was an agreed set, but go ahead.

7 MR. HARRIS: Yes.

8 Number 2, Your Honor, the way it's worded, it says, "You'll
9 be asked to determine the value of each of these claims." I
10 think that should go behind the sentence that follows it. So it
11 should say, "If you find for the plaintiff, then you'll be asked
12 to determine the value for each of those claims."

13 THE COURT: Oh, I see. On my page, it's the very last
14 sentence. It says, "You'll be asked to determine." So you're
15 saying it needs to say, "If you find for the plaintiff, you'll
16 be asked to determine."

17 MR. HARRIS: There's a second page of No. 2.

18 THE COURT: Okay.

19 MR. HARRIS: And so I think it should go after the
20 sentence that says, "Plaintiff Daniel Hopkins claims that." I
21 think it should follow -- "you will be asked to determine the
22 value of each of these claims" should follow that.

23 THE COURT: Mr. Wampold, any problem with moving that
24 sentence back?

25 MR. WAMPOLD: I think that's fine. I mean, the jury

1 has to determine the 2016 claim for benefits. They have to
2 determine that. So -- but I think for a preliminary
3 instruction, that's fine, I guess.

4 THE COURT: Okay. Ms. Pernell, I want you to put the
5 sentence, "You'll be asked to determine the value of each of
6 those claims" after the sentence "Plaintiff Daniel Hopkins
7 claims that as a result of defendant Integon General Insurance
8 Corporation's conduct, he suffered damages."

9 All right. Mr. Harris, anything else?

10 MR. HARRIS: Number 21, Your Honor.

11 THE COURT: All right.

12 MR. HARRIS: Bullet Points No. 4 and 7 are
13 duplicative.

14 THE COURT: It appears that that's the case,
15 Mr. Wampold.

16 MR. WAMPOLD: Yeah, it does, so I think 7 should come
17 out.

18 THE COURT: Okay. We'll knock off 7.

19 Next, Mr. Harris?

20 MR. HARRIS: Number 23, Your Honor. This is the CPA
21 injury instruction.

22 THE COURT: Okay.

23 MR. HARRIS: I think we need to add an explanation of
24 the fact that injury to business and property does not include
25 injuries that are personal injuries, such as physical injury to

1 a person's body or pain and suffering, those sorts of things.

2 THE COURT: Well, it does say, "The injury element is
3 met if the insured's property, interest, or money is
4 diminished."

5 MR. HARRIS: And I agree, and I think that's a correct
6 statement of the law. I think it needs to be clarified that it
7 doesn't include bodily injuries, personal injuries, things like
8 that.

9 THE COURT: So is this the pattern instruction?

10 MR. WAMPOLD: Yes.

11 THE COURT: Mr. Harris, it says, to me, what they
12 consider. We usually don't -- we don't usually give negative
13 instructions.

14 MR. HARRIS: Okay.

15 THE COURT: In other words, we tell people what to
16 include; we don't tell them what not to include.

17 MR. HARRIS: Understood.

18 THE COURT: Okay. Anything else?

19 MR. HARRIS: Twenty-four, Your Honor.

20 THE COURT: Okay.

21 MR. HARRIS: Subsection 2 says, "The plaintiff was" --
22 you know what? I'm, actually, going to skip that one. That one
23 is fine with us, Your Honor.

24 THE COURT: Okay.

25 MR. HARRIS: That would be it. Those are it.

1 THE COURT: All right. Well, Ms. Pernell will make
2 those changes and send out the most recent set with my signature
3 stamped for October the 5th.

4 Okay. Anything left on that?

5 MR. WAMPOLD: No. I do -- I just want to say thank
6 you so much to the court for doing this. You're the only judge
7 I've ever tried a case in front of that gets the instructions
8 done ahead of time, and it makes the trial so much more sensical
9 to everybody. So thank you for your efforts. It is a great way
10 to start a trial.

11 THE COURT: It's self-protection. I get two shots at
12 getting it right.

13 MR. WAMPOLD: Right. Yeah, that's good, good for all
14 of us.

15 THE COURT: All right. The next issue I'd like to
16 take up is the motion for reconsideration on witness Currie, and
17 I've had an opportunity to read Mr. Harris's brief, and I have
18 reviewed the rules that he cites. I took a look at the
19 deposition and the interrogatory answers.

20 Mr. Wampold, is there more that you want to say about this?

21 MR. WAMPOLD: Not unless Your Honor is inclined to
22 grant their motion for reconsideration. If you're not, there's
23 nothing more we need to say.

24 THE COURT: Okay.

25 Mr. Harris, what would you like to have me know beyond what

1 you wrote for me?

2 MR. HARRIS: I think what we wrote and what we've
3 talked about before -- what we talked about last week, Your
4 Honor -- I think the court's got a good sense of what the issue
5 is.

6 THE COURT: Okay. Well, the real problem here is the
7 name of Ms. Currie was not disclosed. And, obviously, if the
8 defense thinks that this is an important witness, the plaintiffs
9 would think that this is an important witness as well.

10 Rule 26, when it talks about lay-down discovery, the first
11 thing -- the first rule is that you announce the name, if you
12 know it. And even lay-down discovery comes with an obligation
13 to continue to supplement.

14 So that's the first time the defense bypassed an
15 opportunity to identify who they wanted to call as their
16 representative.

17 I took a look at the interrogatories, and, you know, the
18 first two interrogatories, it would seem to me that Ms. Currie
19 would be properly identified in either of them, or both. They
20 asked for who it is who was a representative on the file, and
21 it's my understanding that, at one point, she was a supervisor
22 here. So unless you're going to take the position, Mr. Harris,
23 that she had nothing do with this file, she would have had to be
24 someone identified.

25 And then the second interrogatory asks for persons with

1 knowledge, and, obviously, if you want to call her, she's a
2 person with knowledge. So that's three times that the
3 opportunity to identify her was passed up.

4 Then there's the deposition, where she is identified, and
5 that would have been, last March, the perfect time to say, "Oh,
6 and by the way, Ms. Currie is going to be our representative."
7 That would have alerted the plaintiffs that they should be
8 interested in Ms. Currie as someone to pursue, or, at least,
9 have the opportunity to weigh and pursue whether they wish to
10 take her deposition.

11 So the defense tells me that there are nine different
12 places where her name comes up. What that says to me is there
13 were nine different times when you could have said, "This is our
14 representative." I don't think the plaintiff is required to
15 guess who it is that you're going to be bringing as a witness.

16 One of the things you've suggested in your materials, that
17 I should allow her to testify as a lay witness using 701, but,
18 actually, 701 I don't think supports your position.

19 The committee notes on the rules, basically, says this:
20 "Rule 701 has been amended to eliminate the risk that the
21 reliability requirements set forth in Rule 702 will be evaded
22 through the simple expedient of proffering an expert in lay
23 witness clothing. Under the amendment, a witness's testimony
24 must be scrutinized under the rules regulating expert opinion to
25 the extent that the witness is providing testimony based on

1 scientific, technical, or other specialized knowledge within the
2 scope of Rule 702. By channeling testimony that is actually
3 expert testimony to Rule 702, the amendment also ensures that a
4 party will not evade the expert witness disclosure requirements
5 set forth in Federal Rule 26 and Federal Criminal Rule 16 by
6 simply calling an expert witness in the guise of a layperson."

7 Now, what that tells me is that vehicle that you suggest,
8 701, what you're trying to do is exactly what the committee said
9 you can't do, and that is convert a layperson into an expert
10 and, thereby, avoid identifying the individual and the subject
11 matter to which they are going to testify.

12 So I'm denying your motion for reconsideration.

13 All right. That leaves us the issue of defense counsel's
14 motion in limine challenge to the plaintiff's expert.

15 Mr. Wampold, you have to help me with this name.

16 MR. WAMPOLD: *Strez-leck.*

17 THE COURT: *Strez-lick?*

18 MR. WAMPOLD: *Strez-leck.*

19 THE COURT: *Strez-leck?*

20 MR. WAMPOLD: Yeah.

21 THE COURT: What would you like to tell me in response
22 to the motion in limine?

23 MR. WAMPOLD: Oh, you're asking me?

24 THE COURT: (Nods.)

25 MR. WAMPOLD: Yeah.

1 Your Honor, going back and looking at the motion, it
2 appears they really are trying to exclude him completely, which
3 is what I had remembered, and the reality is -- I think we laid
4 this pretty well out in our briefing. But the courts have held
5 that, in bad-faith cases, this is something that is not familiar
6 to jurors, so it's useful to have an expert in insurance claims
7 handling.

8 And he, basically, does a very good job of testifying
9 because he's testified in cases of mine for -- a couple of times
10 now, one in front of Your Honor. He does a good job of
11 explaining that his opinions are based on the standards in the
12 industry and this is how things are done, and it's quite helpful
13 to the jury to hear those standards.

14 And that's the overall response.

15 Now, there is some picky things that counsel argued that we
16 addressed in our briefing that I'm happy to get into the weeds
17 on, but that's the overall motion. I think it's just -- it's --
18 it's a motion that he's, basically, not helpful and he's
19 testifying to the law. Well, he's not testifying to the law,
20 and it is helpful.

21 THE COURT: All right. Mr. Harris, what else would
22 you like to have me know?

23 MR. HARRIS: Yeah. I -- I disagree. The motion is
24 really after the concept of a bad-faith expert. We have Bill
25 Hight testifying. Bill Hight has testified numerous times in

1 similar cases.

2 It's not a motion to say that someone coming in to talk
3 about industry standards and customs shouldn't be allowed.
4 We're bringing an expert in ourselves to do that. It's really
5 the way that Strzelec does it and the way he presents it.

6 He presents it in terms of an opinion that he states as a
7 standard. "This is an industry standard because I say so."
8 "This is what is required because I say so," without, actually,
9 equating it to some sort of standard that we can look up and
10 say, "This standard applies because it's been recognized in the
11 industry, and here is the authoritative source for that." It's
12 not just me, somebody who used to work in insurance, telling you
13 this is how it is because that's what I think. That's not a
14 proper expert opinion. It has to be grounded in some sort of
15 basis. Mr. Strzelec's opinions just aren't grounded in that
16 basis.

17 THE COURT: All right.

18 Well, Mr. Harris, your objection here to me sounds more
19 like an attack on how well he articulates his opinions and what
20 he did in order to check his opinions. That's no different than
21 any other expert; in other words, that attack comes in
22 cross-examination. And you're certainly free to, basically,
23 attack the expert and say, "Is there any place you look? Is
24 there any standard that you consulted? Is there something that
25 has been tested in the industry?" All of those kinds of

1 questions would be appropriate, but I don't think it means that
2 you get to knock the witness out, or even the witness's opinion.
3 How well it is supported is the subject of cross-examination.

4 Now, Mr. Wampold, your expert is not going to be able to
5 testify to a different standard than the one I've given you in
6 your jury instructions, and if he starts to, you can expect that
7 Mr. Harris is going to object, and I will rule in his favor. So
8 you need to be careful as to how you word your questions.

9 MR. WAMPOLD: Understood.

10 THE COURT: And we'll take it a question at a time.

11 All right. I think that that is what I needed to cover
12 today.

13 Now, let me ask you this: Are you familiar with the
14 platforms that we're asking you to use?

15 MR. WAMPOLD: Are we familiar with the platforms?
16 From the plaintiff, we are, yeah.

17 THE COURT: Do you feel like there's any more Zoom
18 training that you need?

19 MR. WAMPOLD: I don't think there is any more Zoom
20 training we need. There are a few logistical things about it
21 that I wanted to talk about when it's the right time.

22 THE COURT: Okay. Well, now is the right time.

23 MR. WAMPOLD: Okay.

24 One of the things that we wanted to discuss is, we've,
25 actually, been practicing with the platform, to make sure it

1 works well. And during voir dire, it makes sense for all the
2 jurors to have this gallery view, where they see everyone. But
3 what we found is, during opening and close, and probably the
4 directs and crosses, once we get into trial -- voir dire is
5 over -- we found that it works much better, from the jury's
6 perspective, if they put it in speaker view. Because when --
7 and we can show you, Your Honor. We, actually, wanted to test
8 the PowerPoints. But if they keep getting gallery view and see
9 everyone, then the PowerPoint becomes quite small. And it's
10 better to have the person -- it looks better if they're in
11 gallery view, the jurors.

12 And so our hope is that you'll agree and that we can then
13 give some instructions to the jurors that, once voir dire is
14 over, that they should put it into speaker view, and there's an
15 adjustment to the PowerPoint that, I think, will work well.

16 THE COURT: Actually, that's one of the things that
17 the committee talked about, Mr. Wampold.

18 MR. WAMPOLD: Oh.

19 THE COURT: Here was the rationale: That if the
20 jurors were in the courtroom, they would be able to look at
21 anybody that they wanted, and they would be able to look at the
22 reaction of defense counsel or the plaintiff, and if they want
23 to do that, we didn't see any reason why they had to be focused
24 on you alone. So that was the rationale.

25 They certainly will be trained on how to go back and forth.

1 MR. WAMPOLD: Okay.

2 THE COURT: And they may very well decide that they
3 only want to be focusing on the speaker (inaudible), but they
4 could decide that they wanted to see what the reaction was.

5 MR. WAMPOLD: Yeah.

6 THE COURT: Anything that happens in the courtroom is
7 something that they can take into account for.

8 Now, I do wish that we could figure out a way for me to not
9 look like I've got a terrible sunburn.

10 MR. WAMPOLD: There is a touch-up feature you can do,
11 where it will touch you up. If you click on -- yeah, if you
12 click on the buttons on the right, and you go to "advanced
13 settings," it's got touch-up function.

14 THE COURT: Okay. I'll have my staff do that. What
15 I'm really hoping for is younger and thinner. I don't imagine
16 you can do that.

17 MR. WAMPOLD: Actually, I was clicking on it, and if
18 you click down at the bottom -- this is for your staff -- but if
19 you click down at the bottom under "video" and then go to "video
20 settings," there is a function there that says "touch up my
21 appearance."

22 THE COURT: Okay.

23 MR. WAMPOLD: So --

24 THE COURT: Well, maybe I'll come back looking like
25 I've had a little work.

1 MR. WAMPOLD: You'll look great.

2 So I'm wondering if -- we can do it after you drop off, but
3 I would like to try out the PowerPoint and just see how it
4 looks.

5 And, I guess, one thing, Your Honor, while you're still on,
6 is, if you would indulge us after you've read the jury
7 instructions and before opening statement, just to make sure the
8 jurors are all set with where the PowerPoint is and that they
9 can see -- Mr. Gahan is going to do the opening -- but where
10 they can see Mr. Gahan and the PowerPoint. Does that work?

11 THE COURT: Sure. I mean, we'll check in with the
12 jurors all the way along the line and make sure they're all with
13 us --

14 MR. WAMPOLD: Okay.

15 THE COURT: -- and ready to go. And speak up any time
16 if that's something that you want to take some time to do,
17 because in the courtroom we would do that as well. We'd make
18 sure that the camera was set up and that everybody could see.

19 MR. WAMPOLD: Okay. Great.

20 THE COURT: So that's not a problem.

21 MR. WAMPOLD: Okay. Great.

22 THE COURT: Are you going to be using Box, or are you
23 using your own presentation platforms?

24 MR. WAMPOLD: Yes. So speaking for the plaintiffs,
25 we've uploaded all the exhibits to Box, but we will be using

1 PowerPoint to display the actual exhibits.

2 THE COURT: Okay. Mr. Harris, are you using your own
3 platform?

4 MR. HARRIS: We'll be using our own platform, Your
5 Honor, yes.

6 THE COURT: Okay. Can I have both of you certify that
7 the exhibits that you loaded into Box are identical to the ones
8 that you are intending to display?

9 MR. WAMPOLD: They are.

10 MR. HARRIS: Yes, Your Honor.

11 THE COURT: Okay. Any other questions?

12 MR. WAMPOLD: Yeah, I had a couple. One is, will we
13 get the, kind of, bio sheets we normally get for jurors? Will
14 we get that ahead of time so we can start tracking?

15 THE COURT: You should. In other words, the jurors
16 are going to report to the virtual jury room orientation
17 program, and so they are going to see Judge Martinez for a
18 couple of minutes, ahead of time, explaining why we are doing
19 this by Zoom. There will also be the standard orientation
20 program that we always show, you know, Sandra Day O'Connor
21 talking about jury trials, et cetera, and then they'll also see
22 the eight-minute implicit bias video.

23 So they won't be coming into our sphere probably for about
24 45 minutes, and I would expect, by that time, Jeff Humenick will
25 have randomized our pool and then transferred up, and, perhaps,

1 Ms. Williams or Mr. Cogswell, can you tell us how the lawyers
2 are going to get the information on our jurors?

3 THE CLERK: Jeff has not told me that, but I can
4 certainly email it to everybody. I'm in contact with his group.

5 THE COURT: All right. Then you can expect that
6 you're going to get it by email.

7 MR. WAMPOLD: Great. That's great.

8 And then, Your Honor, I know Your Honor indicated that we
9 should deal with exhibits outside the presence of the jury so
10 that we don't -- you know, especially because of the platform,
11 we don't want to waste time fighting over exhibits.

12 Maybe you want to see -- maybe we could carve out some
13 time -- if we're going to wait 45 minutes, maybe we can come on
14 early on Monday and get some of that done Monday morning. Is
15 that possible?

16 THE COURT: Certainly. That's fine.

17 MR. WAMPOLD: Okay.

18 THE COURT: I don't expect that they're going to be
19 ready to come -- literally, if we had an elevator, up the
20 elevator --

21 MR. WAMPOLD: Yeah.

22 THE COURT: -- until about 9:45.

23 MR. WAMPOLD: Okay. So should we just plan on
24 starting at 9:00?

25 THE COURT: Well, it depends. If you've got 15

1 exhibits for me to rule on and take a look at. If you've got
2 two, you know, that makes a difference.

3 MR. WAMPOLD: My feeling is we should start at 9:00,
4 and then if we could take a little break, great, but it may take
5 45 minutes.

6 THE COURT: Okay. All right. Everybody be ready to
7 go at nine o'clock, and we'll take it up at that time.

8 MR. WAMPOLD: Great.

9 THE COURT: Anything else?

10 MR. WAMPOLD: No.

11 We provided the court with a calendar of all of our
12 witnesses, so hopefully the court received that. But we've got
13 the order that, at least, tentatively, we plan on going in.

14 THE COURT: That reminds me. There's one other thing
15 that I'm going to ask you to do.

16 Can one of the lawyers, when I tell them, in the voir dire
17 questions, take a look at this list of witnesses, can you
18 provide a list of witnesses with the witnesses' names, and be
19 able to load it up so they can actually read it off the screen?

20 MR. WAMPOLD: We can take care of that, Your Honor.

21 THE COURT: Okay. I'd like to have the jury see it in
22 print rather than me simply trying to read off the names,
23 because it's easier to recognize if you can see the spelling.

24 MR. WAMPOLD: Exactly. We'll come up with the list,
25 and then we'll load it into Box, and then we can just show it to

1 the jury when you're ready.

2 THE COURT: Okay. All right.

3 Anything else, Mr. Wampold?

4 MR. WAMPOLD: Not from us, Your Honor.

5 THE COURT: Okay. Mr. Harris, do you have any other
6 issues that you want to talk about?

7 MR. HARRIS: No, Your Honor. Thank you.

8 THE COURT: Okay. Then I will leave you and let you
9 work with the courtroom deputies on anything else you want to
10 practice.

11 I like to try cases. I don't care whether you settle this
12 or not, but if you do, would you please make sure that you know
13 how to get ahold of my courtroom deputy? Because there is work
14 over the weekend that will be done, and I'll be spending time
15 reviewing the materials, and if I don't have to do that, I'd
16 appreciate not having to. So if you settle it, don't celebrate
17 before the judge knows that you're out celebrating.

18 MR. WAMPOLD: Okay, Your Honor. We won't do that.

19 THE COURT: Okay. Very good.

20 All right. Then have a nice weekend. We'll get ready.
21 I'm looking forward to seeing how this works on Monday. And
22 what I would say is, we all need to take a deep breath and
23 relax, and we will work through this, and we are cutting edge.
24 This is the first federal court in the nation to do this.

25 MR. WAMPOLD: Wow. That's very exciting, actually.

1 THE COURT: Yeah. So, anyway, have a nice weekend.

2 MR. WAMPOLD: Thank you, Your Honor. You, too.

3 MR. HARRIS: You, too, Your Honor. Thank you.

4 (Proceedings concluded at 2:10 p.m.)

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C E R T I F I C A T E

I, Nancy L. Bauer, CCR, RPR, Court Reporter for the United States District Court in the Western District of Washington at Seattle, do hereby certify that I was present in court during the foregoing matter and reported said proceedings stenographically.

I further certify that thereafter, I have caused said stenographic notes to be transcribed under my direction and that the foregoing pages are a true and accurate transcription to the best of my ability.

Dated this 8th day of April 2021.

/S/ Nancy L. Bauer

Nancy L. Bauer, CCR, RPR
Official Court Reporter